

Appl. No. 10/716,163
Amdt. dated March 1, 2006
Reply to Office Action mailed February 7, 2006

REMARKS/ARGUMENTS

Claims 1-40 have been cancelled without intending to abandon or to dedicate to the public any patentable subject matter. New Claims 41-48 have been added. Accordingly, following entry of the foregoing amendments, Claims 41-48 will be pending. As set forth more fully below, reconsideration and withdrawal of the Examiner's rejections of the claims are respectfully requested.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected Claims 6-9, 12-20, 23, 24, 26, 28, 29 and 33-40 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants have cancelled these claims and therefore believe all of these rejections under 35 U.S.C. § 112 are moot.

Claim Rejections Under 35 U.S.C. § 102

The Examiner has rejected Claims 1, 10, 11, 21 and 22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,366,159 (Magruder), U.S. Patent No. 3,980,766 (Shaw), U.S. Patent No. 4,762,709 (Sheumaker) or U.S. Patent No. 4,599,342 (LaHann). Applicants have cancelled all of the claims rejected under 35 USC 102(b) and have added new claims 41-48 that do not recite methylcellulose. Applicants therefore request that the Examiner's rejections over Magruder, Shaw, Sheumaker or LaHann under 35 USC 102(b) be withdrawn.

Claim Rejections Under 35 U.S.C. § 103

The Examiner has rejected (a) Claims 1, 8-12, 16-19, 21, 28-30, 33 and 37-39 under 35 U.S.C. § 103(a) as being obvious over Hospice Journal, 6(4): 1-15 (1990) (Lazarus et al.); the drug monograph for Senokot Tablets from the drugs.com website; Persaud et al., Current Medical Research & Opinion (1985), 9(9), 626-633; G.B. Patent No. 2281205 (Miller et al.); and Herndon et al., Pharmacotherapy (2-3/2002), 22(2):240-250; (b) Claims 1-4, 8-24 and 28-40 under 35 U.S.C. § 103(a) as being obvious over Hospice Journal, 6(4): 1-15 (1990) (Lazarus et al.); the drug monograph for Senokot Tablets from the drugs.com website; and U.S. Patent No.

Appl. No. 10/716,163
Amdt. dated March 1, 2006
Reply to Office Action mailed February 7, 2006

6,375,957 (Kaiko et al.) and (c) Claims 1-4, 8-24, 28-40 under 35 U.S.C. § 103(a) as being obvious over Hospice Journal, 6(4): 1-15 (1990) (Lazarus et al.), the drug monograph for Senokot Tablets from the drugs.com website, U.S. Patent No. 6,375,957 (Kaiko et al.), U.S. Patent No. 5,232,699 (Colliopoulos), and U.S. Patent No. 5,516,524 (Kais). In view of the cancellation of all of the claims previously pending in this application and the submission herein of new Claims 41-48, which are drastically reduced in scope from the previously pending claims, all three of the above 103 rejections will be responded to by the following collective comments. Lazarus et al. teach a method of preventing or decreasing constipation in patients taking a controlled release version of morphine sulfate by titrating the dose of a separately-administered combination of a stool softener and a stimulant laxative. Lazarus et al. do not teach or suggest the use of a single, mono-phasic dosage form, nor a method of preventing opiate-induced constipation caused by hydrocodone (the only opiate covered by newly submitted Claims 41-48), using a stool softener alone. The numerous secondary references applied by the Examiner do not overcome these deficiencies. Therefore, it is Applicants' position that the various combination of references based on Lazarus et al. do not teach the specific limitations of new Claims 41-48, which are of drastically reduced scope from Claims 1-40 previously presented in this application (all now withdrawn). Accordingly, Applicants request that all three of the Examiner's rejections under 35 U.S.C. § 103(a) be withdrawn.

It is respectfully requested that the Adam and Tylox references cited by Applicants in the Information Disclosure Statement (IDS) mailed on January 19, 2006 be considered by the Examiner and made of record herein. That IDS was submitted after the Examiner prepared the Office Action dated January 9, 2006 (but mailed February 7, 2006) to which this Amendment is in response.

Appl. No. 10/716,163
Amdt. dated March 1, 2006
Reply to Office Action mailed February 7, 2006

Based upon the foregoing, Applicants believe that all pending claims (i.e., Claims 41-48) are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: ROBERT D. TRAVER

Robert D. Traver
Registration No. 47,999
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: 1 MARCH 2006